

Housing and Multifamily Housing Assistance Restructuring, HUD

§ 401.602

industry standards and HUD guidelines. The management standards must be included or referenced in the Restructuring Plan.

(b) *HUD guidelines.* At a minimum, the PAE's management standards must require the project management to:

(1) Protect the physical integrity of the property over the long term through preventative maintenance, repair, or replacement;

(2) Ensure that the building and grounds are routinely cleaned;

(3) Maintain good relations with the tenants;

(4) Protect the financial integrity of the project by operating the property with competitive and reasonable costs and maintaining appropriate property and liability insurance at all times;

(5) Take all necessary measures to ensure the tenants' physical safety; and

(6) Comply with other provisions that are required by HUD, including termination of the management agent for cause.

(c) *Conflicts of interest.* The PAE management standards must also conform to any guidelines established by HUD, and industry standards, governing conflicts of interest between owners, managers, and contractors.

Subpart E—Section 8 Requirements for Restructured Projects

§ 401.595 Contract and regulatory provisions.

The provisions of chapter VIII of this title will apply to renewal of a section 8 project-based assistance contract under this part only to the extent, if any, provided in the contract. Part 983 of this title will not apply. The term of the contract renewals under this part will be determined by the appropriate HUD official.

[65 FR 53901, Sept. 6, 2000]

§ 401.600 Will a section 8 contract be extended if it would expire while an owner's request for a Restructuring Plan is pending?

(a) If a section 8 contract for an eligible project would expire before a Restructuring Plan is implemented, the

contract may be extended at rents not exceeding current rents:

(1) For up to the earlier of one year or closing on the Restructuring Plan under § 401.407; or

(2) For such period of time beyond one year as HUD may approve, up to the closing of the Restructuring Plan.

(b) Any extension of the contract beyond one year for a pending Restructuring Plan, other than an extension approved under this section, must be at comparable market rents or exception rents. An extension at comparable market rents will not affect a project's eligibility for the Mark-to-Market program once it has been established under this part.

(c) HUD may terminate the contract earlier if the PAE or HUD determines that an owner is not cooperative under § 401.402 or if the owner's request is rejected under § 401.403 or § 401.405.

[71 FR 2121, Jan. 12, 2006]

§ 401.601 [Reserved]

§ 401.602 Tenant protections if an expiring contract is not renewed.

(a) *Required notices.* (1)(i) The owner of an eligible project who has requested a Restructuring Plan and contract renewal must provide a 12-month notice as provided in section 514(d) if MAHRA, if the owner later decides not to renew an expiring contract (except due to a rejection under §§ 401.101, 401.403, 401.405, or 401.451.) If the owner gives such 12-month notice, the owner is not required to give a separate notice under section 8(c)(8) of the United States Housing Act of 1937.

(ii) An owner who gives the 12-month notice required by paragraph (a)(1)(i) of this section and who determines not to renew a contract must give additional notice not less than 120 days before the contract expiration.

(2) The owner of an eligible project who has requested a Restructuring Plan but who has been rejected under §§ 401.101, 401.403, 401.405, or 401.451 must provide 12 months advance notice under section 8(c)(8)(A) of the United States Housing Act of 1937, unless project-based assistance is renewed under § 402.4 of this chapter.

(3) Notices required by this paragraph must be provided to tenants and

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to HUD or the contract administrator. HUD will prescribe the form of notices under this paragraph, to the extent that the form is not prescribed by section 8(c)(8) of the United States Housing Act of 1937.

(b) *If owner does not give notice.* If an owner described in paragraph (a)(1) or (a)(2) of this section does not give timely notice of non-renewal or termination, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction due to inability to collect an increased tenant portion of rent.

(c) *Availability of tenant-based assistance.* (1) Subject to the availability of amounts provided in advance in appropriations and the eligibility requirements of the tenant-based assistance program regulations, HUD will make tenant-based assistance available under the following circumstances:

(i) If the owner of an eligible project does not renew the project-based assistance, any eligible tenant residing in a unit assisted under the expiring contract on the date of expiration will be eligible to receive assistance on the later of the date of expiration or the date the owner's obligations under paragraph (b) of this section expire; and

(ii) If a request for a Restructuring Plan is rejected under § 401.101, § 401.403, § 401.405, or 401.451, and project-based assistance is not otherwise renewed, any eligible tenant who is a low-income family or who resides in a project-based assisted unit on the date of Plan rejection will be eligible to receive assistance on the later of the date the Restructuring Plan is rejected, or the date the owner's obligations under paragraph (b) of this section expire.

(2) If the tenant was assisted under the expiring contract, assistance under this paragraph will be in the form of enhanced vouchers as provided in section 8(t) of the United States Housing Act of 1937.

[65 FR 15485, Mar. 22, 2000, as amended at 65 FR 53901, Sept. 6, 2000]

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§ 401.605 Project-based assistance provisions.

The project-based assistance rents for a restructured project must be the restructured rents determined under the Restructuring Plan in accordance with §§ 401.410 or 401.411.

§ 401.606 Tenant-based assistance provisions.

If the Restructuring Plan provides for tenant-based assistance, each assisted family residing in a unit assisted under the expiring project-based assistance contract when the contract terminates will be offered tenant-based assistance if the family meets the eligibility requirements under part 982. Whenever permitted by section 515(c)(4) of MAHRA, the tenant-based assistance will be in the form of enhanced vouchers as provided in section 8(t) of the United States Housing Act of 1937.

Subpart F—Owner Dispute of Rejection and Administrative Appeal

§ 401.645 Owner request to review HUD decision.

(a) *HUD notice of decision.* (1) HUD will provide notice to the owner of:

(i) A decision that the owner or project is not eligible for the Mark-to-Market program;

(ii) A decision not to offer a proposed Restructuring Commitment to the owner; and

(iii) A decision to offer a proposed Restructuring Commitment. The proposed Restructuring Commitment provided to the owner constitutes the notice of decision for purposes of requesting a review of a HUD decision.

(2) The notice of decision will include the reasons for the decision.

(3) The notice of decision will also notify the owner of the right to request a review of the decision or to cure any deficiencies on which the decision was based; the date by which the review request must be submitted or the deficiencies must be cured, which will be at least 30 days after the date of the notice of decision; and the address to which the review request is to be submitted.